

NOTICE

**TO ALL PERSONS WHO HAVE SIGNED THE STANDARD FORM 189
"CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT"
OR THE STANDARD FORM 189-A
"CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT
(INDUSTRIAL/COMMERCIAL/NON-GOVERNMENT)"**

1. By a rule issued by the Information Security Oversight Office, published in the Federal Register on September 29, 1988, implementing an order of the United States District Court for the District of Columbia, the second sentence of Paragraph 1 of every executed copy of the Standard Form 189, "Classified Information Nondisclosure Agreement," is clarified to read:

As used in this Agreement, classified information is marked or unmarked classified information, including oral communications, that is classified under the standards of Executive Order 12356, or under any other Executive order or statute that prohibits the unauthorized disclosure of information in the interest of national security; and unclassified information that meets the standards for classification and is in the process of a classification determination as provided in Sections 1.1(c) and 1.2(e) of Executive Order 12356, or under any other Executive order or statute that requires protection for such information in the interest of national security.

2. The Information Security Oversight Office has issued a new "Classified Information Nondisclosure Agreement," Standard Form 312, to be executed by all cleared Government and non-Government employees as a condition of access to classified information. The SF 312 will be used in lieu of the Standard Form 189, "Classified Information Nondisclosure Agreement," and the Standard Form 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)." Previously executed copies of the SF 189 and SF 189-A remain valid, and will be interpreted and enforced in a manner that is fully consistent with the interpretation and enforcement of the SF 312. Therefore, any cleared employee who has previously signed the SF 189 or the SF 189-A does not need to execute the SF 312. However, at that employee's discretion, he or she may elect to substitute a signed SF 312 for a previously signed SF 189 or SF 189-A.

3. Scope of "classified information": As used in the SF 312, the SF 189, and the SF 189-A, "classified information" includes marked or unmarked classified information, including oral communications, and unclassified information that meets the standards for classification and is in the process of a classification determination, as provided in Sections 1.1(c) and 1.2(e) of Executive Order 12356, or any other statute or Executive order that requires interim protection for certain information while a classification determination is pending. "Classified information" does not include unclassified information that may be subject to possible classification at some future date, but is not currently in the process of a classification determination.

4. Basis for liability: A party to the SF 312, SF 189 or SF 189-A may be liable for disclosing "classified information" only if he or she knows or reasonably should know that: (a) the marked or unmarked information is classified, or meets the standards for classification and is in the process of a classification determination; and (b) his or her action will result, or reasonably could result in the unauthorized disclosure of that information. In no instance may a party to the SF 312, SF 189 or SF 189-A be liable for violating its nondisclosure provisions by disclosing information when, at the time of the disclosure, there is no basis to suggest, other than pure speculation, that the information is classified or in the process of a classification determination.

5. For further information, please contact: